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BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN WASHINGTON REGION
STATE OF WASHINGTON

BRODEUR/FUTURWISE, VINCE PANESKO
AND WASHINGTON STATE DEPARTMENT OF
COMMERCE,

Petitioners,

v.

BENTON COUNTY,

Respondent,

CITY OF WEST RICHLAND, THE ESTATE OF
THAYNE WISER, CLAYNE WISER, KURT
WISER, and TALON WISER,

Intervenors.

Case No. 09-1-0010c

**ORDER FINDING
COMPLIANCE AND CLOSING CASE**

(West Richland UGA)

I. SYNOPSIS

To achieve compliance with the Growth Management Act, Benton County adopted Resolution 11-089, restoring the City of West Richland Urban Growth Area to its pre-2009 size. The Board determined that the County's action brought it into compliance with the Growth Management Act.

II. DISCUSSION

On February 23, 2009, the Board of County Commissioners adopted Benton County Resolution 09-143 which amended the Comprehensive Plan Land Use Map to add 747 acres of land to the City of West Richland's Urban Growth Area.¹

¹ Futurewise Petition for Review (April 10, 2009), Tab 09-143.

1 In April 2009, Petitioners John Brodeur, Futurewise, and Vince Panesko filed timely
2 Petitions for Review (PFR) challenging Resolution 09-143, and a Hearing on the Merits was
3 held on November 5, 2009 in Kennewick.

4
5 In the December 2, 2009 Final Decision and Order (FDO), the Board found that there was
6 no substantial evidence in the record to support the 747-acre **size** of the UGA expansion
7 area. The Board concluded that Petitioners had carried their burden of proof in
8 demonstrating that Benton County's action adopting Resolution 09-143 violated RCW
9 36.70A.110 and RCW 36.70A.115.²

10 On May 24, 2010, Benton County adopted Resolution 10-301 in an attempt to achieve
11 compliance with the GMA. At the City's request, Benton County rescinded Resolution 09-
12 143 and amended the Comprehensive Plan to reduce the previous UGA expansion area
13 from 747 acres down to 545 acres.

14 On September 24, 2010, the Board issued its Order Finding Continuing Non-Compliance
15 (West Richland UGA), in which the Board concluded Benton County's adoption of
16 Resolution 10-301 enlarging the West Richland Urban Growth Area violated RCW
17 36.70A.110 and RCW 36.70A.115, was not supported by substantial evidence in the record,
18 and was clearly erroneous in view of the entire record before the Board and in light of the
19 goals and requirements of the GMA.

20 On January 24, 2011, the Board of County Commissioners of Benton County adopted
21 Resolution 11-089, which rescinded Resolution 10-301 to gain compliance with the GMA. In
22 Futurewise's Response to Benton County's Statement of Compliance Action, Petitioners
23 supported the rescission action by Resolution 11-089, stating that it effectively reduced the
24 UGA back to the status as it existed prior to the adoptions of Resolutions 09-143 and 10-

25 ² FDO at 17.
26

301. Futurewise also supported the Board issuing an order finding compliance in this appeal.

III. ORDER

Benton County's adoption of Resolution 11-089 brings Benton County into compliance with the Growth Management Act. This case is closed.

Entered this 26th day of April, 2011.

Raymond L. Paoella, Board Member

Joyce Mulliken, Board Member

William Roehl, Board Member

Pursuant to RCW 36.70A.300 this is a final order of the Board.

Reconsideration. Pursuant to WAC 242-02-832, you have ten (10) days from the mailing of this Order to file a petition for reconsideration. Petitions for reconsideration shall follow the format set out in WAC 242-02-832. The original and three copies of the petition for reconsideration, together with any argument in support thereof, should be filed by mailing, faxing or delivering the document directly to the Board, with a copy to all other parties of record and their representatives. Filing means actual receipt of the document at the Board office. RCW 34.05.010(6), WAC 242-02-330. The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review. A response to a Motion for Reconsideration must be filed within 5 days of the filing of the motion.

Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior court as provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement. The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW 34.05.542. Service on the Board may be accomplished in person, by fax or by mail, but service on the Board means actual receipt of the document at the Board office within thirty days after service of the final order.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).